

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VI
DALLAS, TEXAS

IN THE MATTER OF:

Houston-St.Louis Properties, Ltd.

Palmer Warehouse & Transfer
Company, Inc.

RESPONDENTS

REGARDING THE

Pack 1
Palmer Warehouse Site, TXD006B06582
Houston, Harris County, Texas

Proceeding under §106(a) of the Com-
prehensive Environmental Response,
Compensation and Liability Act of
1980 (42 U.S.C. §9606(a)), as amended.

ADMINISTRATIVE ORDER

DOCKET NUMBER

CERCLA-VI-06-88

ADMINISTRATIVE ORDER

This Administrative Order (ORDER) is issued to the above-named Respondents pursuant to Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. §9606(a) as amended, by authority delegated by the President of the United States in Executive Order 12580, 51 Fed. Reg. 2923 (January 29, 1987), to the Administrator of the United States Environmental Protection Agency (EPA) and redelegated to the Regional Administrator, Region VI. Notice of the issuance of this ORDER has been given to the State of Texas through the Texas Water Commission (TWC).

9490428



T. 820 31

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VI
DALLAS, TEXAS

IN THE MATTER OF:

Houston-St.Louis Properties, Ltd.

Palmer Warehouse & Transfer
Company, Inc.

RESPONDENTS

REGARDING THE

^{Pack 1}
Palmer Warehouse Site, TX D0068065825
Houston, Harris County, Texas

Proceeding under §106(a) of the Com-
prehensive Environmental Response,
Compensation and Liability Act of
1980 (42 U.S.C. §9606(a)), as amended.

ADMINISTRATIVE ORDER

DOCKET NUMBER

CERCLA-VI-06-88

ADMINISTRATIVE ORDER

This Administrative Order (ORDER) is issued to the above-named Respondents pursuant to Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. §9606(a) as amended, by authority delegated by the President of the United States in Executive Order 12580, 51 Fed. Reg. 2923 (January 29, 1987), to the Administrator of the United States Environmental Protection Agency (EPA) and redelegated to the Regional Administrator, Region VI. Notice of the issuance of this ORDER has been given to the State of Texas through the Texas Water Commission (TWC).

[Handwritten signatures and initials]
CH-10C
FREY HANNESCHLAGER HANBACK PARKER STOKES NEET DUCK DAVIS
6/17

The Regional Administrator has determined that there may be an imminent and substantial endangerment to the public health or welfare or the environment by releases or threatened releases of hazardous substances as defined in Section 101(14) of CERCLA, 42 U.S.C. §9601(14), from the facility known as the Palmer Warehouse Site, which is located in Houston, Harris County, Texas. This ORDER directs you to undertake action to protect the public health and welfare and the environment from this endangerment.

FINDINGS OF FACT

1. The site is located on 17.08 acres of land. The legal description of the site is as follows:

BEGINNING at an iron pipe in the east right of way line of Lockwood Drive 100 foot right of way, 714.62 feet South $0^{\circ} 48' 30''$ West of an iron rod marking the South right of way line of Sonora Street 50 foot right of way; THENCE South $89^{\circ} 14' 30''$ East 826.21 feet to a concrete monument with $1/2''$ iron rod, on the West right of way line of T. & N. O. RR; THENCE South $0^{\circ} 45' 30''$ West along the West right of way line of the T. & N. O. RR 716.93 feet to an iron pipe; THENCE continuing along the said West right of way line, along a curve to the right with radius of 360 feet, intersection angle of $30^{\circ} 29'$, chord South $16^{\circ} 0'$ West 189.29 feet, a distance of 191.53 feet to an iron pipe; THENCE North $89^{\circ} 14' 30''$ West 787.37 feet along the North side of a 15 foot sanitary sewer easement to an iron pipe in the East right of way line of Lockwood Drive; THENCE North $5^{\circ} 18' 30''$ East 64.6 feet to an iron rod; THENCE continuing along said East right of way line of Lockwood Drive along a curve to the left with radius of 1687.02 feet intersection angle of $4^{\circ} 30'$ a distance of 132.5 feet to an iron rod; THENCE continuing along the East right of way line of Lockwood Drive North $0^{\circ} 48' 30''$ East 702.69 feet to the PLACE OF BEGINNING.

2. The site is an active facility that operates as a full distribution warehouse storing a variety of commodities for various clients. The site is located in a predominately residential area.
3. An inspection by the EPA Technical Assistance Team (TAT) documented that 63 drums of material are stored at the site (Attachment 1). The drums contain acetaldehyde, formaldehyde and alpha methyl styrene. Some of the drums contain unknown chemicals. The condition of the drums is deteriorating and are in generally poor condition.
4. Photographic and printing materials are also stored at the site. These materials contain potassium ferrocyanide, chrome alum, phosphoric acid, ammonium bichromate and ammonium hydroxide. Some of the containers have been damaged and are leaking.
5. Respondent Houston-St. Louis Properties, Ltd. is a Texas limited partnership comprised of George A. Shutt and New England Mutual Life Insurance Company.
6. As evidenced by the documents referred to below, Respondent Houston-St. Louis Properties, Ltd. is the current owner of the site:

Evidence

State of Texas
Special Warranty Deed 131-07-1424
Dated November 22, 1975

7. Respondent Palmer Warehouse & Transfer Company, Inc. is incorporated in the State of Texas.

8. As evidenced by the document referred to below, Respondent Palmer Warehouse & Transfer Company, Inc. is the operator of the site:

Evidence

Lease Agreement
Dated May 9, 1984

CONCLUSIONS OF LAW

9. The Respondents are "person"s as defined in Section 101(21) of CERCLA, 42 U.S.C. §9601(21).
10. The Site is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. §9601(9).
11. The substances found at the site are "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. §9601(14), and are subject to the terms and provisions of that act.
12. The spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment of hazardous substances constitutes a "release" as defined in Section 101(22) of CERCLA, 42 U.S.C. §9601(22). The threat of any of the above constitutes the threat of a release.
13. As evidenced by the Findings of Fact numbered three (3) and four (4) the site poses the threat of a release of hazardous substances.

14. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), imposes liability on:

- a) the owner and operator of a vessel or a facility;
- b) any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed of;
- c) any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person, by any other party or entity, at any facility or incineration vessel owned or operated by another party or entity and containing such hazardous substances; and
- d) any person who accepts or accepted any hazardous substances for transport to disposal or treatment facilities, incineration vessels or sites selected by such person; from which there is a release, or a threatened release which causes the incurrence of response costs, of a hazardous substance.

15. The Respondents are liable, under Section 107(a) of CERCLA, for costs for responding to releases or threatened releases at the site because they own or operate the site.

16. The liability imposed by Section 107(a) of CERCLA, 42 U.S.C. §9607(a) extends to all costs incurred by the United States

Government, a State or Indian Tribe so long as the actions are not inconsistent with the National Contingency Plan (40 CFR Part 300), or any other person if the actions are consistent with the National Contingency Plan, in the taking of actions made necessary by a release, or the threat of a release, of hazardous substances into the environment. The liability also encompasses damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction or loss. A person liable under Section 107(a) of CERCLA is also responsible for the costs incurred by the Agency for Toxic Substances and Disease Registry in assessing the potential risk to human health posed by exposure to hazardous substances the probable source of which was a release. The costs of actions taken in response to the health assessment are also the responsibility of persons liable under Section 107(a) of CERCLA. A person made liable by Section 107(a) may also be charged interest on the delayed payment of the enumerated costs.

Persons otherwise liable under Section 107(a) can become liable for punitive damages if they fail, without sufficient cause, to provide removal or remedial actions ordered of them, by a person authorized, pursuant to Section 104 or 106 of CERCLA (42 U.S.C. §9604, §9606).

DETERMINATIONS

17. The release or threat of release of the hazardous substances described in paragraphs 3 and 4 of this Order may present an

imminent and substantial endangerment to public health or welfare or the environment.

18. In order to protect human health, welfare and/or the environment, it is necessary that the actions described below be taken.

ON-SCENE COORDINATOR

19. The EPA has appointed an On-Scene Coordinator (OSC) who will be the designated representative for the EPA at the Site. The appointed OSC is Pat Hammack, who can be contacted at (214) 655-2270.
20. All decisions of EPA under this ORDER, including approvals, disapprovals, reports, workplans, specifications, schedules, and other work outputs, will be communicated to you by the EPA OSC. No formal or informal advice, guidance, suggestions, or comments by anyone other than the OSC regarding any activities undertaken in satisfaction of this ORDER shall relieve you of, or add to, obligations imposed by this ORDER. No informal guidance provided by the OSC is binding upon you. The OSC will differentiate between formal and informal guidance.

ORDER

21. Based on the foregoing Findings of Facts, Conclusions of Law, and Determinations, it is hereby Ordered and Directed that:

- a. You shall, no later than three (3) business days after the effective date of this Order, contact Mr. John Meyer, whose address and telephone number are provided in paragraph thirty-four (34) below, and inform him of your intent to act or not to act as ordered. EPA will assume if the Respondents do not respond, that the Respondents refuse to perform the action. If you elect not to act you may be subject to penalties as explained in paragraph thirty-six (36). If you elect to act as ordered, you will proceed as follows:
- b. You shall appoint no later than three (3) business days after the effective date of this Order, a Facility Coordinator who shall be responsible for this ORDER and the activities required herein. You shall notify EPA of the Facility Coordinator's identity and the address at which he may be contacted. Your Facility Coordinator shall coordinate and work with the EPA OSC.
- c. You shall develop a Plan to undertake the following:
 - (i.) Sample and overpack the materials described in Attachment 1.
 - (ii.) Remove and properly dispose of the materials at a facility acceptable to the EPA OSC.
- d. You shall, no later than fourteen (14) calendar days after the effective date of this ORDER, send the Plan with schedules for implementation to the EPA OSC.

- e. Upon approval by the EPA, you shall implement the Plan in accordance with the schedule therein.
22. All actions taken pursuant to the ORDER shall be done in accordance with all applicable Federal and State laws and/or regulations.
23. You shall not, in any way, interfere with, obstruct, or undo efforts taken by any party to this ORDER.
24. EPA retains its right and power to take appropriate action, including enforcement action, to address any noncompliance by you with the terms of this ORDER, or to address any other event or occurrence not covered by this ORDER upon which EPA is empowered to act under any applicable law.
25. Compliance with this Order will not release any person from responsibilities to pay costs, recompenations, indemnifications or contributions, to undertake, or cause to be undertaken, response actions or other efforts of any nature not herein required but necessary to protect human health or the environment from releases or threats of release of hazardous substances arising from the Palmer Warehouse site.

DETERMINATION OF COMPLETION

26. This ORDER shall terminate when all actions required under paragraph twenty-one (21) have been successfully completed. You will be notified by the EPA OSC, in writing, when he has made that determination.

RECORD PRESERVATION

27. You shall preserve, during the pendency of this ORDER and for a minimum of six (6) years after the termination of this ORDER, all records and documents in your possession or in the possession of your divisions, employees, agents, or contractors, successors or assignees, prepared pursuant to or under the requirements of, or which in any way relate to, this ORDER, regardless of any document retention policy to the contrary.
28. You shall notify EPA thirty (30) calendar days prior to the destruction of any documents required to be kept pursuant to this section. Upon request by EPA, you shall make available, to EPA, the actual records or copies of the actual records required to be maintained pursuant to this paragraph.

OTHER CLAIMS

29. Nothing herein is intended to release any claims, causes of action or demands in law or equity against any person, firm, partnership, or corporation for any liability it may have to the United States, the State of Texas or any other person, firm, partnership, corporation or association arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous substances, hazardous wastes, solid wastes, pollutants, or contaminants found at, taken to, or taken from the Site.

30. This ORDER does not constitute any decision on preauthorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. §9611(a)(2).

LIABILITY OF EPA

31. Nothing herein is intended to be an assumption by EPA of liability for any claims or causes of action arising from, or on account of, your acts or omissions or acts or omissions of those under your control arising in connection with the carrying out of activities pursuant to this ORDER.
32. EPA will not be a party to any contract you might make in responding to this Order.

EFFECTIVE DATE - OPPORTUNITY TO CONFER

33. This ORDER is effective upon receipt thereof by you and all times for performance of response shall be calculated from that date.
34. You may make an oral request for a conference, followed by written notice, to the Regional Administrator. Such request must be received by the Regional Administrator within three (3) business days following your receipt of this ORDER.
- Address your request for a conference to:

Mr. John C. Meyer
U.S. Environmental Protection Agency
Superfund Compliance Section (6H-EC)
1445 Ross Avenue
Dallas, Texas 75202-2733
(214) 655-6730

35. At any conference held pursuant to your request, you may appear in person or by attorney or other representatives. At the conference, you or your representative, may present your analysis of technical feasibility of this ORDER, or you or your representative may offer evidence correcting any factual allegations made in this ORDER.

PENALTIES FOR NONCOMPLIANCE

36. Be advised that willful violations of, failure or refusal to comply with this ORDER, or any portion of it, may subject you, under §106(b) of CERCLA, 42 U.S.C. §9606(b), to a civil penalty of not more than \$25,000 for each day in which such violation occurs or such failure to comply continues. Failure to comply with this ORDER, or any portion thereof, without sufficient cause, may subject you, under §107(c)(3) of CERCLA, 42 U.S.C. §9607(c)(3), to liability for punitive damages in an amount up to three times the costs incurred by the government as a result of your failure to take proper action.

Dated: _____

June 22, 1988

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BY: _____

Robert E. Layton Jr.

Robert E. Layton Jr., P. E.
Regional Administrator

U.S. Environmental Protection Agency, Region VI

ATTACHMENT 1
SCI DRUM INVENTORY
(63 Drums)

1. Acetaldehyde	Rusted
2. Acetaldehyde	Rusted, Bulge near drum cap
3. Alpha Methyl Styrene*	Rusted, Overpacked
4. Alpha Methyl Styrene	Spout-type cap with bulge
5. Aerosol A268	Overpacked fiber drum
6. Aerosol A268	Overpacked fiber drum
7. Acetaldehyde	Rusted
8. Alpha Methyl Styrene	Spout-type cap with bulge
9. Alpha Methyl Styrene	Rusted, Dented
10. Aerosol A268	Overpacked fiber drum
11. Aerosol A268	Overpacked fiber drum
12. Unknown: Marked MVO-Trebacher***	Ring top
13. Acetaldehyde	
14. Acetaldehyde	Rusted
15. Acetaldehyde	Rusted
16. Acetaldehyde	Rusted
17. Pyramid Chemical: DMF Adhesive	
18. Alpha Methyl Styrene	
19. Alpha Methyl Styrene	
20. Formaldehyde** No Visible Markings (On Western Co. Skid)	Rusted
21. Acetaldehyde	Rusted
22. Acetaldehyde	Rusted, Dented
23. Formaldehyde** No Visible Markings (On Western Co. Skid)	Rusted
24. Acetaldehyde	Rusted, Dented
25. Alpha Methyl Styrene	
26. Alpha Methyl Styrene*	Rusted top and side, Dented
27. Acetaldehyde	Rusted
28. Acetaldehyde	Rusted
29. Acetaldehyde	Rusted
30. Formaldehyde** No Visible Markings (On Western Co. Skid)	Rusted
31. Alpha Methyl Styrene	
32. Alpha Methyl Styrene	
33. Acetaldehyde	Rusted
34. Acetaldehyde	
35. Abmostat - 810	Ring top
36. Formaldehyde** Western Co. Marking (On Western Co. Skid)	Rusted
37. Acetaldehyde	Rusted
38. Acetaldehyde	Rusted
39. Acetaldehyde	Rusted
40. Abmostat - 810	Ring top
41. Aerosol A268	Overpacked fiber
42. Acetaldehyde	Rusted
43. Formaldehyde** Western Co. Marking (On Western Co. Skid)	Rusted

TU 1132

SCI Drum Inventory Continued:

44. Alpha Methyl Styrene*	Bulged top
45. Alpha Methyl Styrene*	
46. Alpha Methyl Styrene	
47. Alpha Methyl Styrene	
48. Aerosol A268	
49. Aerosol A268	Stored near south wall between
50. Aerosol A268	double garage doors
51. Aerosol A268	
52. Diamond Shamrock	Overpacked short fiber drum in open 55-gal. metal drum
53. Aerosol A268	Overpacked fiber drum
54. Aerosol A268	Overpacked fiber drum
55. Aerosol A268	Overpacked fiber drum
56. Aerosol A268	Overpacked fiber drum
57. Sun Co. Weed Killer (No Visible Markings, identified by Palmer on 5-20-88)	
58. Salvage - 80 Gallon Drum	
59. Salvage - 80 Gallon Drum	
60. Salvage - 80 Gallon Drum	Ring top
61. Diamond Shamrock	Short fiber drum
62. Diamond Shamrock	Short fiber drum, Stained
63. Salvage - 80Gallon Drum	

* Assumed - No Visible Marking
Located on Chemcentral Skid
14-Drum Total - Agrees w/EPA 1-29-88 Inventory

**Formaldehyde - No Visible Marking Except for The Western Co. on #36, #43)
5-Drum Total - Agrees w/EPA 1-29-88 Inventory

***MVO-Trebacher Drum was not on EPA 1-29-88 Inventory

SUMMARY 63-DRUM TOTAL

Acetaldehyde	19 Drums
Formaldehyde	5 Drums
Alfa Methyl Styrene	14 Drums
Aerosol A268	13 Drums
Abmistat 810	2 Drums
Diamond Shamrock: Unknown	3 Drums
Pyramid Chemical: DMF Adhesive	1 Drum
Sun Oil: Weed Killer	1 Drum
Unknown: Marked MVO-Trebacher	1 Drum
Salvage	4 Drums

SUMMARY OF PHOTOGRAPHIC MATERIALS

9 Drums		Asphaltum Gum Etch Finisher
8 Cases	4 Gal. Each	Dispatch Black Lacquer Developer
12 Cases	4-1 Gal	D'Glaze It
6 Cases	12 Qt. Bottles	Elektrostat (Potassium Ferro Cyanide)
12 Cases	4-1 Gal	Black Bristle Lacquer Developer
1 Case	4-1 Gal	Ultra Kem (Acid, No Cyanide)
32 Cases		Professional Universal Fountain Concentrate (Clear)
9 Cases	4-1 Gal	Pure Gum Arabic
6 Cases	4-1 Gal	Ultra Kem (5 Damaged, 4 are Leaking)
64 Cases	4-1 Gal	D'Glaze It
2 Boxes		Black to Yellow B-T-Y #1 Quick Color Wash
3 Pails		Elektra Electrostatic Etch
1 Case	4-1 Gal	Super Sensitizer Coating
1 Case		Dispatcher Black Lacquer Developer
2 Cases	4-1 Gal	Big Red Machine Lacquer Developer
7 Cases		Lithographic Chemical Preparation - Cleaning Soln
9 Cases	4-1 Gal	Kem Guard (Acid Soln.)
18 Cases	4-1 Gal	Dispatch Black Lacquer Developer (Acid)
20 Cases	4-1 Gal	Electra Electrostatic Etch (Cyanide)
35 Cases	4-1 Gal	Tray Cleaner (Dichromate)
11 Cases	4-1 Gal	Elektrostat Etch (Potassium Ferro Cyanide)
2 Cases	4-1 Gal	Dispatch Black Lacquer Developer
19 Cases	5-Gal	Electra Electrostatic Etch